

Local Government Employee-Management Relations Board E-Newsletter

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Members of the Board

Philip E. Larson, Chairman

Brent C. Eckersley, Esq., Vice-Chairman

Sandra Masters, Board Member

Staff

Bruce K. Snyder, Commissioner

Yvonne V. Martinez, Board Secretary

On the Horizon

The next meeting of the Board will be held on October 14th to 16th in Las Vegas. The agenda for this meeting, which will be finalized on October 6th, may at that time be viewed on our website at www.emrb.state.nv.us. Friday, October 3rd will be the deadline for the submission of any documents for the meeting. The main hearing will be the case of Jarod Barto et al. v. City of Las Vegas. This case involves a number of probationary firefighters who were non-confirmed over allegations of cheating on an exam while in the fire academy.

At this meeting the Board is also scheduled to vote on an election order containing the particulars for a runoff election between the Education Support Employees Association and Teamsters 14 as to which union has the support of more than 11,000 classified employees (e.g., bus drivers, secretaries, custodians, kitchen workers, etc.) who work for the Clark County School District.

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Our New Website Is Live

Our new website has been live since September 2nd. We hope you take the time to go to www.emrb.state.nv.us and look around at its various features. In particular we would encourage you to view the Log of Open Cases, which can be accessed in the lower left corner of the website. This log lists all our outstanding cases, along with basic information for each. If you have a case with the EMRB you will be able to see where it fits with all the other open cases.

Since going live we have also finished adding copies of all the orders ever issued by the EMRB. These are not searchable. However, when the updated index is loaded in a few months you will then have all the tools you need to search and find the case(s) you need.

But there is more yet to come!! This fall, when all the local governments and employee organizations file their annual reports with us we will place this information on our website so that the information is readily available to all. At that time we will also include on our website current copies of all collective bargaining agreements. This will make it easy for you to look up similar provisions in other CBA's – in order to compare benefits or else to find that elusive perfect language already drafted by someone else.

Finally, please offer any ideas or suggestions for improving the site as we want it to work for you!

It's Time for Local Governments to File Their Annual Reports

By November 30th of each year every local government in Nevada must file an annual report with the EMRB. This report provides the EMRB with contact information for the person who is to receive official communications from our agency. It also lists all the employee organizations that represent their employees, and for each employee organization, it then lists the bargaining units represented by that employee organization.

This year we have revamped the form, making it easier to read and eliminating information either no longer needed or not required by state law. Moreover, beginning this year local governments are not only allowed to electronically file their reports but are encouraged to do so. We will be mailing the forms to you the first few days in October to give you plenty of time to complete your report.

Did you know

the three members of the Employee-Management Relations Board are appointed by the Governor for terms of four years? Philip E. Larson was recently reappointed by Governor Sandoval for his second four-year term. Also, the Board each year must choose a Chairman and Vice-Chairman from its three members. This year the Board selected Mr. Larson for another term as Chairman and selected Brent C. Eckersley as the Vice-Chairman for the coming year. Sandra Masters, who elected not to pursue any of the two positions, remains on the Board as a member. We thank them all for their service!

Recent Decisions

*Please note that these summaries are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. The Board had issued one notable decision in September:

A1-044929, [Timothy Frabbiele v. City of North Las Vegas \(Item No. 6801\)](#)

Timothy Frabbiele was a probationary police officer for the City of North Las Vegas. In the summer of 2007 he was the subject of an internal affairs investigation that arose out of a parking ticket he issued. During that process the City interviewed him and others and issued him a memo to attend a mitigation hearing, he attended the mitigation hearing, and on September 5, 2007 the City requested he attend a meeting on September 10, 2007 to receive discipline. However, at his discipline meeting he instead was non-confirmed. He later filed a complaint with the EMRB, alleging a unilateral change, discrimination based on personal affiliation and discrimination based upon sex. The EMRB dismissed the complaint, stating it was one day beyond the six-month filing period.

Mr. Frabbiele ultimately appealed this decision to the Nevada Supreme Court, which remanded the case back to the EMRB for a reconsideration of the timeliness issue in light of intervening rulings by the Court. In another case decided by the Court after the EMRB decided Frabbiele, the Court ruled that the limitations period does not begin to run until the aggrieved party has "clear and unequivocal notice of a violation" which is defined as having "first hand knowledge of the facts necessary to support a present and ripe prohibited labor practices complaint." The Court also directed the EMRB to consider whether equitable tolling should apply. Based on a review of these considerations the Board this time determined that Mr. Frabbiele's complaint was indeed timely. It then determined that one of the three claims filed by Mr. Frabbiele, that of a unilateral change to the disciplinary process, was valid and that Mr. Frabbiele should be reinstated to the status he was on as of September 10, 2007, which was on paid administrative leave pending discipline, that he receive back pay and benefits less what he may have earned in the interim, and that any adverse determinations be expunged from his file.

In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. Below is a description of the current queue:

On October 14-16 the Board will meet in Las Vegas and is scheduled to hear A1-046091, Jarod Barto et al v. City of Las Vegas, a case involving a number of probationary firefighters who were non-confirmed over allegations of cheating on an exam.

On November 12-14 the Board will meet in Las Vegas and, subject to Board approval, will hear A1-046109, Nicholas Eason v. Clark County, involving a firefighter who worked for the Clark County Fire Department.

On December 9-11 the Board will continue the hearing in the 18 consolidated cases involving various physicians at University Medical Center in their dispute with SEIU, Local 1107 and SEIU International.

On January 13-15 the Board will meet in Las Vegas and hear two cases: A1-046106, Michael Turner v. Clark County School District and A1-046108, Las Vegas City Employees Assoc. and Val Sharp v. City of Las Vegas.

The following cases are waiting for the Board to deliberate and decide on the status of the case, including, but not limited to, dismissal of the case or the granting of a hearing on the complaint. Please note that the order listed below is not necessarily the order in which the cases will be heard:

In Las Vegas:

A1-046054 & A1-046080, North Las Vegas Police Supv. Assoc. v. City of North Las Vegas

A1-046102, North Las Vegas Police Supv. v. City of North Las Vegas

A1-046111, Justin Simo v. Henderson Police Officers Association

A1-046113, ESEA & POA of CCSD v. Clark County School District

A1-046116, David O'Leary v. Las Vegas Metropolitan Police Department

A1-046118, Sherri Davis v. Clark County School District

A1-046120, IAFF, Local 1908 v. Clark County

A1-046123, Nye County Law Enforcement Assoc. v. Nye County

In Northern Nevada:

A1-046068, Elko County Employees Association v. Elko County

Practice Tips

What happens when impasse is declared during negotiations over a new collective bargaining agreement? NRS 288.190(1) states that "[a]nytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1, either party involved in negotiations may request a mediator. If the parties do not agree upon a mediator, the Commissioner shall submit to the parties a list of seven potential mediators. The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name."

The EMRB keeps a list of individuals who have agreed to act as a mediator. We plan on updating this list, and the associated resumes, each December. Please contact us should you need our assistance to get past impasse.

"About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.